IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17353 of 1998

Between:

N. Venkatesham, S/o Sathaiah,
R/o Ranga Reddy District.

..... PETITIONER

AND

1 The Presiding Officer Labour Court-I, Hyderabad
Hyderabad
2 The Depot Manager, A.P.S.R.T.C.,
Mehadipatnam Depot, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ particularly one in the nature of Writ of Certiorari and after calling the records from the 1st Respondent in I.D.No.94/94, and quash the Award dt: 29-4-95 in so far not granting reinstatement, back wages, continuity of service and other attendant benefits, and Consequently direct the Respondents to reinstate the petitioner with continuity of service, back wages and other attendant benefits.

Counsel for the Petitioner:MR.V.VISWANATHAM

Counsel for the Respondents: GP FOR LABOUR

The Court made the following :

O R D E R:

The writ petition is filed by the workmen being aggrieved by the award passed by the Labour Court-I,Hyderbad, in I.D.No.94/94
dated 29-04-1995, wherein the claim petition filed by the petitioner under Section 2-A (2) of the Industrial Disputes Act (for short 'the Act') was rejected.

It is the case of the petitioner that he was appointed as Conductor in the 2nd respondent-Corporation in the month of April, 1984, after being subjected to regular selection and interview. He had undergone training required for the purpose of Conductor. While working as such,
on 21-03-1995, a show cause notice has been issued by the 2nd respondent-corporation against the petitioner-workmen stating that he was erroneously appointed to the post of Conductor on contract basis for a period of two months in place of one Sri B.Venkatesham by oversight and also on the ground that the petitioner in fact, secured 54% marks in SSC examination as against the minimum percentage required for selection being 55%. Pursuant to the said show cause notice, the petitioner submitted his explanation denying the contents of the said show cause notice. Finally by an order dated 25-04-1985, the 2nd respondent-corporation terminated the petitioner from service without giving any opportunity and without conducting detailed enquiry into the matter. Aggrieved by the said order of termination, the petitioner raised an Industrial Dispute before the 1st respondent-Presiding Officer, Labour Court-, Hyderabad, in I.D.No.94/94, under Section 2-A(2) of the Act, wherein the 2nd respondent-corporation was set-exparte. Before the Labour Court, the petitioner himself was examined as W.W.1 and marked Ex W1, which is Xerox copy of the order of removal dated 25-04-1985. The Labour Court after detailed consideration of the matter, while denying reinstatement of the petitioner to the post, back wages and other benefits directed the corporation to pay two months salary to the petitioner within one month from the date of the order failing which the petitioner is entitled to claim interest over the same at the rate of 12% till the date of realization. Aggrieved by the same, the petitioner preferred the writ petition.

Heard both the counsel.

I have gone through the award passed by the Industrial Tribunal and other relevant material available on record.

The termination order dated 25-04-1995 (Ex-W1) indicates that the same was issued in view of the fact that a mistake had occurred in appointing the petitioner construing that he had obtained minimum 55% in SSC examination for the purpose of being appointed to the post of Conductor from among backward classes. In fact, the petitioner got only 54% of the marks in SSC examination and therefore, he has not qualified for being appointed to the said post. The petitioner worked for two months and thereafter a show cause notice was issued to him stating that there was a mistake in his appointment and that the petitioner has not submitted any explanation to the show cause notice, though he was allowed more than one month time. Under these circumstances, the service of the petitioner was terminated. It is interesting to note that though the said termination order was served on the petitioner, on 25-04-1985, the petitioner raised Industrial Dispute before the 1st respondent in the year 1994 i.e. after about 10 years. Further it is not a case of wrongful retrenchment from service. The authorities by mistake appointed the petitioner against the vacancy of Conductor which is meant to be filled up by a person, who obtained 55% marks in SSC examination. Ultimately, the petitioner obtained only 54% marks in SSC examination. Thus he could not have been find place in the selection list as well as for appointment. But by mistake, the authorities considered that he obtained 55% in the SSC examination and therefore he was appointed and thereafter as per the conditions in the very appointment, they corrected the appointment order itself. Therefore, the Labour Court has rightly refused to interfere with the removal order dated 25-04-1985. Therefore, I am of the considered view that the Labour Court has not committed any error calling for the interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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29-06-2005

Mjl/*

To,

1 The Presiding Officer Labour Court-I, Hyderabad
2 The Depot Manager, A.P.S.R.T.C., Mehadipatnam Depot, Hyderabad.

3. 2 CCS to G.P. for Labour, High Court buildings, Hyderabad.

4. 2 CD copies.